

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO. R5-2016-xxxx
FOR

CINDY STRIEFF, RANDY STRIEFF JR., RACHEL RUHE, AND TRUSTEE OF ROBERT &
PRUDENCE LAMMERS REVOCABLE TRUST
ASSESSOR PARCEL 306-250-004-000
SHASTA COUNTY

This Order is issued to Cindy Strieff, Randy Strieff Jr., Rachel Ruhe, and Trustee of Robert & Prudence Lammers Revocable Trust (hereafter referred to as "Dischargers") based on provisions of Water Code section 13304, which authorizes the Central Valley Regional Water Quality Control Board (Central Valley Water Board) to issue a Cleanup and Abatement Order (Order), and Water Code section 13267, which authorizes the Regional Water Board to require the preparation and submittal of technical and monitoring reports.

The Executive Officer finds, with respect to the Dischargers' acts, or failure to act, the following:

- 1. Purpose of the Order:** This order requires the Dischargers to clean up and abate the effects of the discharge of asphalt, cement, rock, and other earthen materials from dam construction activities and its subsequent failures, as well as effects of stream alterations/widening to East Fork Stillwater Creek, a Class I tributary to Stillwater Creek, and eliminate the threat of future discharges. East Fork Stillwater Creek is considered waters of the state, as well as waters of the United States (references hereafter to waters of the United States are inclusive of waters of the state)¹. The Dischargers are responsible for a failing, earthen, cement and asphalt dam and grading conducted within and adjacent to the stream channel near the headwaters on East Fork Stillwater Creek, waters of the United States, without authorization from applicable federal, state, and local agencies, including the Central Valley Water Board. Work was performed to widen the existing streambed and create a reservoir by installing an earthen, cement, and asphalt dam, presumably to provide a supply of irrigation water for the cultivation of marijuana. This Order requires investigation and cleanup in compliance with the Water Code, the Basin Plan, Resolution 92-49, and other applicable State and Regional Water Board plans, policies, and regulations.
- 2. Responsible Parties:** The Dischargers, as the property owner and the person/and or persons discharging or creating a threat of discharge, are responsible parties for the purposes of this Order. This Order finds that Ms. Cindy Strieff, Mr. Randy Strieff Jr., Ms.

¹ The Regional Water Board administers and enforces the Clean Water Act (CWA). The CWA regulates what it refers to as "navigable waters" and defines those waters as "waters of the United States." Waters of the United States has been interpreted broadly by the agencies responsible for implementing the CWA to include all traditionally navigable waters and their tributaries. (40 C.F.R. 122.2) The Porter-Cologne Water Quality Control Act (Porter-Cologne) provides the Regional Water Board additional authority to regulate discharges of waste into "waters of the state." (Water Code, § 13260.) The term "water of the state" is defined as "any surface water or groundwater, including saline waters, within the boundaries of the state." (Water Code, § 13050, subd. (3).) All waters of the United States that are within the boards of California are also waters of the state for purposes of the Porter-Cologne.

Rachel Ruhe, and the Trustee of Robert & Prudence Lammers Revocable Trust are responsible parties.

- a. Per records from the Shasta County Assessor-Recorder's Office, Ms. Cindy Strieff purchased the 78.5 acre parcel, identified as Assessor Parcel Number (APN) 306-250-004-000 (hereafter "Site"), in September 2003, and sold the Site to Ms. Rachel Rue in June 2015. The Site is located at the end of Jennifer Drive off of Bear Mountain Road in Redding, central Shasta County, Section 24, Township 33N, Range 4W, MDB&M; in the vicinity of latitude 40° 42' 26.6394" N and longitude 122° 16' 18.4866" W.

Staff investigation of Google Earth historic satellite imagery of the Site from 2005, 2006, and 2009 indicates a natural low-flow channel, identified as East Fork Stillwater Creek, transecting the Site. Subsequent clearing of trees and grading visible in the 2010 Google Earth imagery indicates that stream channel grading and construction of a dam structure was conducted between 2009 and 2010. The successional imagery indicates that the dam structure and reservoir may have been constructed to provide water for marijuana cultivation and/or water hauling based on the identification of several small cultivation sites over subsequent years and what appeared to be a water truck located at the Site. In review of the 2010-2015 Google Earth satellite imagery, Staff identified what appear to be several dam failures and subsequent repair of the dam structure during that time period. The 2014 Google Earth imagery indicates a possible repair of the dam structure prior to the most recent failure as observed and photographed during the 13 January 2015 inspection by California Department of Fish & Wildlife (Fish & Wildlife) and the 23 April 2015 joint inspection by Fish & Wildlife and Central Valley Water Board staffs. Accordingly, Ms. Cindy Strieff as the owner of the Site during the time period for which work was conducted and as the person who directed, and/or allowed the actions that resulted in a discharge and/or created a threat of discharge to waters of the United States is a responsible party.

- b. During the 23 April 2015 inspection, Fish & Wildlife and Central Valley Water Board staffs interviewed Mr. Randy Strieff Jr. regarding the timeframe in which stream widening and dam construction activities occurred at the Site. Mr. Strieff indicated that the stream had been excavated and widened and a small dam constructed prior to 2003 when his mother, Ms. Cindy Strieff, acquired the property. Mr. Strieff told Staff that the spoils from the streambed widening prior to 2003, had been stored on-Site east of the present reservoir abandoned by the previous owner/inhabitant. Mr. Strieff indicated he had used those previously excavated soils to build up the existing dam structure to its present height and had conducted work to maintain the dam. Mr. Strieff, as a project manager for Tehama Rock Products (a division of Lepage Company, Inc. specializing in general building and engineering including waterway excavation and restoration), should have been aware that permits would be required prior to conducting work within a stream channel. Mr. Strieff personally conducted actions that have caused or threatened to cause unpermitted discharge of sediment into East Fork Stillwater Creek creating a condition or threatening to create a condition of pollution. Accordingly, Mr. Randy Strieff Jr. is a responsible party.
- c. Per records from the Shasta County Assessor-Recorder's Office, Ms. Rachel Ruhe purchased the Site in June 2015 and transferred ownership to the Robert & Prudence Lammers Revocable Trust in July 2015. The terms of the purchase agreement for the Site include an acknowledgement and assumption of liability by Ms. Ruhe for the Site's "non compliance with fish and game and the county code violations" and an agreement to

"do the necessary repairs to the stream bed and land around the dam." Ms. Ruhe was likely aware of the county code violations associated with the Site as the Site was purchased for cash after Shasta County Department of Resource Management holds continued to hold up the closing process on the sale of the property. Therefore, Ms. Ruhe is a responsible party.

- d. Per records from the Shasta County Assessor-Recorder's Office, Robert & Prudence Lammers Revocable Trust assumed ownership of the Site in July 2015. Stream channel widening and dam construction on East Fork Stillwater Creek at the Site have caused and threaten to cause numerous unpermitted discharges of sediment, rock, asphalt, and concrete from the Site to East Fork Stillwater Creek. Additionally, obstruction of channel flow has allowed for sediment build up behind the dam and stagnation in the upstream channel, allowing for algal build up and creating habitat for invasive species. Accordingly, the Trustee of Robert & Prudence Lammers Revocable Trust, as the current owner of the Site which sustains conditions that have resulted in the discharge and/or create a threat of discharge to waters of the United States, is a responsible party.

3. **Site Location and Description:** The Site is located at the end of Jennifer Drive off of Bear Mountain Road in Redding, Shasta County. Grading to widen the natural low-flow stream channel and a construction of a large earthen dam occurred in the vicinity of latitude 40° 42.446460'N and longitude 122° 16.273595'W, just south of the Pit River Arm of Shasta Lake on East Fork Stillwater Creek south of the stream's headwaters.
4. **Site History:** Per records from the Shasta County Assessor-Recorder's Office, Ms. Cindy Strieff purchased the Site in September 2003. The Site had been flagged by the Shasta County Department of Resource Management for unpermitted work completed in East Fork Stillwater Creek, placing a hold on the sale of the Site until all violations were cleared and satisfactorily resolved with the appropriate agencies. The property was sold to Rachel Ruhe in June 2015 in a cash transaction, bypassing county holds. Ms. Ruhe then transferred the property to the Robert & Prudence Lammers Revocable Trust in July 2015. The 78.5 acre parcel appears to have been largely undeveloped prior to 2010. Historical Google Earth satellite imagery indicates expansion of the stream channel and construction of a large earthen dam to create a reservoir between May 2009 and April 2010. There are no statements or applications on file with the State Water Resources Control Board's Division of Water Rights (Division of Water Rights) for water storage or diversion for the Site location. The Site has no prior regulatory oversight or history with the Central Valley Water Board.
5. **Factual Basis of Order:** The Dischargers conducted activities detailed below that have discharged, or threatens to cause or permit waste to be discharged, into waters of the state and created and/or threaten to create, conditions of pollution in waters of the state by unreasonably impacting water quality and beneficial uses.
 - a. The Site is located south of the Pit River Arm of Shasta Lake on East Fork Stillwater Creek south of the stream's headwaters. At the time of inspection and in the original inspection report, Staff conservatively reasoned that East Fork Stillwater Creek existed as a Class II watercourse noting the presence of aquatic life, however, after discussion with local staff with the Army Corps of Engineers and further research, it was determined that East Fork Stillwater Creek is in fact a Class I anadromous watercourse tributary to Stillwater Creek and thence the Sacramento River. In its lower reaches, East Fork Stillwater Creek is identified by Fish & Wildlife's Biogeographic Information & Observation System (BIOS) as designated critical habitat for Central Valley Steelhead. East Fork

Stillwater Creek supports spawning and migration of winter-run Steelhead, and fall-run Chinook salmon. Grading and widening of East Fork Stillwater Creek and construction of a dam structure were conducted to create a reservoir at the Site. Improper engineering of the mixed material dam structure has led to multiple failures and the discharge of rock, earthen materials, asphalt, and cement to East Fork Stillwater Creek. A sample of the earthen materials used in construction of the dam structure was classified using the Visual Classification of Soils - Unified Soil Classification System, ASTM Standard D 2488-00, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure) and cross referenced with the United States Department of Agriculture (USDA) Web Soil Survey. The mapped sample was found to be consistent with Churn gravelly loam. The processed sample was described as being easily disintegrated with minimal effort, very poorly consolidated, and quickly dissolved when wetted. It is likely that other materials (asphalt and cement bags) were introduced to help stabilize the dam structure, but were ineffective in protecting it from failure and subsequent discharge to East Fork Stillwater Creek. Erosion and discharge of materials used to construct the dam structure are likely to cause increases to turbidity, sediment deposition, and suspended material within East Fork Stillwater Creek. Excessive suspended sediment and increased turbidity can impair water quality and aquatic life. In addition to discharges downstream within East Fork Stillwater Creek, the installation of the dam structure and widening of the low-flow channel has resulted in reduced flow velocity allowing for conditions which may contribute to aggradation behind the dam structure, upstream sediment deposition, elevated temperatures of overflow waters, decreased levels of available dissolved oxygen, and algal proliferation.

- b. On 3 April 2015, Warden Steven Crowl with California Department of Fish & Wildlife (Fish & Wildlife) spoke with Central Valley Water Board staff (Staff), notifying them of an existing threat to water quality on Shasta County APN 306-250-004-000. Warden Crowl submitted photographs from a 13 January 2015 inspection by Fish & Wildlife documenting threats to water quality to staff from the Central Valley Water Board's Cannabis Pilot Project, due to a history of marijuana cultivation associated with the Site.
- c. On 21 April 2015, Warden Crowl notified Staff that he had spoken with the Site's property owner, Ms. Cindy Strieff. Ms. Strieff informed Fish & Wildlife staff that she was requesting an additional inspection to assess what needed to be done in order to clear existing violations as Shasta County Department of Resource Management (Shasta County) had placed a hold on the sale of the property (which was in escrow) until all associated violations were resolved. Due to the water quality concerns that the unpermitted dam posed to East Fork Stillwater Creek, Fish & Wildlife requested that staff from the Central Valley Water Board accompany them in an on-Site inspection.
- d. On 23 April 2015, Warden Crowl spoke with Ms. Streiff to set up an appointment for Fish & Wildlife and Central Valley Water Board staffs to inspect the Site. Ms. Strieff's son, Randy Strieff Jr. telephoned Fish & Wildlife the same day to meet at the Site that afternoon. Staff additionally obtained on-Site consent from Mr. Streiff Jr. to inspect the Site in conjunction with Fish & Wildlife for water quality concerns. As documented in the attached Strieff Property Inspection Report (Attachment 1), on 23 April 2015, Staff inspected the Site finding a partially failed dam structure and a large reservoir. Staff inspected the areas upstream and downstream of the dam structure to assess impacts. Downstream, Staff found evidence of hardened concrete bags, asphalt, and earthen materials discharged within East Fork Stillwater Creek. Upstream, Staff observed overgrowth of filamentous algae, likely due to reduced flow velocity, elevated

temperatures, lowered dissolved oxygen, and stagnation. Based on measurements collected during the 23 April 2015 inspection, Staff estimated that the dam structure's most recent failure discharged approximately **6,091 cubic feet** (~226 cubic yards) of materials used to construct the dam downstream into East Fork Stillwater Creek. In addition, approximately **15,095 cubic feet** (~560 cubic yards) of unauthorized fill materials used to construct the dam structure remain within the channel of East Fork Stillwater Creek. Placement of these materials in East Fork Stillwater Creek is by definition a discharge of waste. The minimum water storage capacity for the reservoir was calculated to be approximately **1.42 acre-feet**.

- e. 14 May 2015, Mr. Randy Strieff Jr. contacted Staff to inquire as to what may be required in order to bring the property into compliance. Staff responded that, in the very least, cleanup of downstream materials related to the dam failure would need to be addressed, and possibly removal of the dam structure, dependent on the determination of the Division of Water Rights related to the on-stream reservoir.
 - f. On 2 June 2015, Fish & Wildlife issued a Notice of Violation of Fish and Game Code (FGC) sections 1602 and 5650 via certified mail to Mr. Randy Strieff and Ms. Cindy Strieff. The letter included requirements for submittal of a Lake and Streambed Alteration (LSA) Agreement, submittal of stamped and engineered plans for modification or reinstallation of the dam structure along with procurement of the appropriate water rights from the Division of Water Rights, removal of debris from the dam failure, reseeding of disturbed areas, and re-establishment of the natural stream.
 - g. On 15 June 2015, Central Valley Water Board Staff issued a Notice of Violation addressed to Ms. Cindy Strieff via certified mail outlining violations and water quality concerns associated with the Site. The letter also asked that Ms. Strieff provide plans for removal of the dam structure or plans for re-engineering by a qualified professional along with appropriate approvals from the Division of Water Rights for retaining the reservoir.
 - h. On 17 July 2015, both certified letters from Fish & Wildlife and Central Valley Water Board staffs were returned as unclaimed to their respective offices though the mailing address for Ms. Strieff was verified on multiple occasions. Staff spoke with Mr. Randy Strieff Jr. on 23 July 2015, again confirming the mailing address for Ms. Cindy Strieff. Mr. Randy Strieff Jr. told Staff that the property had sold and that the new property owners had agreed to assume all responsibilities for the condition of the property. Mr. Strieff Jr. also indicated to Staff that his parents had moved out of state but that they still were able to receive mail at the mailing address Staff had on file. Staff additionally notified the Shasta County Department of Resource Management, who was also unaware that the property had changed hands.
 - i. Due to the continued threat the remaining dam structure poses to East Fork Stillwater Creek and the complexity of multiple responsible parties due to transfer of Site ownership, Staff recommends that this cleanup and abatement order be issued to address Site remediation.
6. **Beneficial Uses and Water Quality Objectives:** The *Water Quality Control Plan for the Sacramento River Basin and San Joaquin River Basin, Fourth Addition, revised June 2015* (hereafter "Basin Plan") designates beneficial uses, establishes water quality objectives, contains implementation programs for achieving objectives, and incorporates by reference, plans and policies adopted by the State Water Resources Control Board. East Fork

Stillwater Creek is tributary to Stillwater Creek, thence the Sacramento River (below Shasta Dam). Existing and potential beneficial uses for the Sacramento River below Shasta Dam include the following: Municipal & Domestic Supply (MUN); Agricultural Supply (AGR); Industrial Power (POW) and Service Supply (IND); Water Contact (REC-1) & Other Non-contact Recreation (REC-2); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Migration of Warm & Cold Freshwater Aquatic Organisms (MGR); Spawning of Warm & Cold Freshwater Aquatic Organisms (SPWN); Wildlife Habitat (WILD); and Navigation (NAV). Beneficial uses of any specifically identified water body generally apply to all of its tributaries.

- a. The designated beneficial uses of the underlying groundwater include municipal and domestic supply (MUN), agricultural supply (AGR), industrial service supply (IND), and industrial process supply (PRO).
 - b. The Basin Plan lists specific water quality objectives for inland surface waters. These objectives include in part, limitations on increased temperature, sediment, settleable and suspended material, and turbidity.
 - c. The State Water Board has adopted Resolution No. 92-49, *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304* ("Resolution 92-49"), which is included as Appendix 9 of the Basin Plan. Resolution 92-49 sets forth the policies and procedures to be used during an investigation and cleanup of a polluted site, and requires that cleanup levels be consistent with State Water Board Resolution 68-16, the *Statement of Policy with Respect to Maintaining High Quality Waters in California* ("Resolution 68-16"). Resolution 92-49 requires the waste to be cleaned up in a manner that promotes attainment of either background water quality, or the best water quality which is reasonable if background levels of water quality cannot be restored. Any alternative cleanup level to background must: (1) be consistent with the maximum benefit to the people of the state; (2) not unreasonably affect present and anticipated beneficial use of such water; and (3) not result in water quality less than that prescribed in the Basin Plan and applicable Water Quality Control Plans and Policies of the State Water Board. Resolution 92-49 directs that investigations proceed in a progressive sequence. To the extent practical, it directs the Regional Water Board to require and review for adequacy written work plans for each element and phase, and the written reports that describe the results of each phase of the investigation and cleanup.
- 7. Failure to Obtain Necessary Permits:** Central Valley Water Board staff determined that the grading and clearing activities at the Site occurred without coverage under any of the following regulatory permits:
- a. A Lake and Streambed Alteration (LSA) Agreement from Fish & Wildlife;
 - b. A CWA section 404 dredge and fill permit from the Army Corps of Engineers;
 - c. A CWA 401 Water Quality Certification from the Central Valley Water Board;
 - d. A valid water storage right from the Division of Water Rights;
 - e. A grading permit issued by Shasta County.
- 8. Legal Authority to Require Clean Up and Abatement.** Water Code section 13304, subdivision (a) states, in relevant part:

Any person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirements or other order to prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and causes, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts.... Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.

- a. "Waste" is defined by Water Code section 13050, subdivision (d) as, sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.

- 1) Earthen materials, rock, asphalt, and cement, when discharged to waters of the state, are deemed a "waste" as defined in Water Code section 13050. The Dischargers caused or permitted waste to be discharged or deposited where it will be, or has the potential to be, discharged to East Fork Stillwater Creek—waters of the United States.

- b. "Pollution" is defined by Water Code section 13050, subdivision (l)(1) as, *an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following:*

- (A) *The waters for beneficial uses;*
(B) *Facilities which serve these beneficial uses*

- 1) The construction of the unpermitted dam structure and widening of the stream channel within East Fork Stillwater Creek have led to the unauthorized discharge and threat of discharge of wastes into surface waters and have created, or threaten to create, a condition of pollution by unreasonably affecting the beneficial uses of waters of the U. The East Fork Stillwater Creek is tributary to Stillwater Creek and the Sacramento River. Accordingly, the beneficial uses of the Sacramento River discussed above in paragraph no. 6 also apply to all of its tributaries.

- 2) Discharges of sediment and other inert material alter the hydrologic and sediment transport regimes of surface waters by affecting the flow of water and establishment of vegetation. Such changes may lead to adverse conditions such as flooding, increases in suspended sediment and turbidity, accelerated erosion of the adjacent channel bed or

banks, and localized accumulation of deleterious materials. Additionally, such discharges directly threaten habitat for aquatic species dependent upon native sediment and vegetation characteristics (MIGR, SPWN, and WILD). Increased sedimentation and turbidity can result in increased treatment and/or maintenance costs for downstream agricultural and municipal users that withdraw and treat the water (AGR, and MUN). Sediment laden storm water discharges to and the resulting turbidity within surface waters can also affect the recreational and aesthetic enjoyment of the surface waters (REC-1, REC-2).

The discharge of earthen materials, rock, asphalt, and cement from the failure of the dam structure is considered a discharge of waste to waters of the United States in violation of Water Code sections 13260² and 13376³, which creates a condition of pollution subject to this Order in accordance with Water Code section 13304.

- 9. Clean Water Act Violations:** The Clean Water Act prohibits discharges containing pollutants to waters of the U.S. except in compliance with an active NPDES permit. Furthermore, CWA section 404 requires any person proposing to discharge dredge or fill material into navigable water of the United States to obtain a Section 404 permit prior to such discharge. CWA section 401 requires that any person obtaining a Section 404 permit, obtain water quality certification from the State in which the discharge occurs.
- a. Staff documented a failed dam structure having discharged approximately 226 cubic yards of fill materials downstream, within East Fork Stillwater Creek. Evidence of rock, asphalt, and cement used to construct the dam structure were found discharged nearly 200 feet from the dam structure, while smaller sized earthen materials (such as sands and fines present in the visually analyzed sample collected from the remaining fill materials) were likely transported and deposited further downstream. In addition to the discharge of fill materials from the dam structure failure, Staff documented approximately 560 cubic yards of unauthorized fill materials remaining within the channel of East Fork Stillwater Creek, holding back approximately 1.42 acre-feet of water within the constructed reservoir.
- 10. Cleanup and Abatement Action Necessary:** Fill materials used to construct the dam structure at the Site have discharged due to failure and threaten future discharges of asphalt, cement, rock, earthen materials and fine sediment to East Fork Stillwater Creek. Sediments discharged from the Site have a high potential of being deposited within spawning areas utilized by sensitive anadromous species downstream. The on-Site reservoir has allowed for backflow and decreased flow velocities upstream, creating conditions that have led to stagnant waters and overgrowth of filamentous algae.

² Pursuant to Water Code section 13260, subd. (a)(1) "[a]ny person discharging waste or proposing to discharge waste, within any region that could affect the quality of the waters of the state..." shall file a report of waste discharge. The Regional Board has not received a 401 application or report of waste discharge for wastes discharged at the Site.

³ Pursuant to Water Code section 13376 "[a]ny person discharging pollutants or proposing to discharge pollutants to the navigable waters of the United States within the jurisdiction of this state or any person discharging dredged or fill material into the navigable waters of the United States within the jurisdiction of this state shall file a report of the discharge in compliance with the procedures set forth in Section 13260, except that no report need be filed under this section for discharges that are not subject to the permit application requirements of the Federal Water Pollution Control Act, as amended."

Conditions such as these are likely to coincide with increased temperatures and decreased available oxygen. Cleanup and abatement is necessary to ensure that the existing condition of pollution is cleaned up, that threatened unauthorized discharges to surface waters originating from the Site are prevented, background water quality levels are restored, and that any impacts to beneficial uses are mitigated. The current condition of pollution is a priority violation as outlined in the State Water Resources Control Board Water Quality Enforcement Policy (Enforcement Policy) and the issuance of a cleanup and abatement order pursuant to Water Code section 13304 is appropriate and consistent with policies of the Central Valley Water Board.

- 11. Technical Reports Required:** Water Code section 13267(a) provides that the Regional Water Board may investigate the quality of any water of the State within its region in connection with any action relating to the Basin Plan. Water Code section 13267, subdivision (b) provides that the Regional Water Board, in conducting an investigation may require dischargers to furnish, under penalty of perjury, technical or monitoring program reports. The technical reports required by this Order are necessary to assure compliance with this Order and to protect the waters of the state. The technical reports are further necessary to demonstrate that appropriate methods will be used to cleanup waste discharged to surface waters and surface water drainage courses and to ensure that cleanup complies with Basin Plan requirements. In accordance with Water Code section 13267, subdivision (b) the findings in this Order provide the Dischargers with a written explanation with regard to the need for remedial action and reports and identify the evidence that supports the requirement to implement clean up and abatement activities and submit the reports. The Dischargers named in this Order own and/or operate, have owned and/or have operated the Site from which waste was discharged and thus are appropriately named as parties responsible for providing the reports.
- 12. California Environmental Quality Act:** Issuance of this Order is being taken for the protection of the environment and to enforce the laws and regulations administered by the Regional Board as such is exempt from provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) in accordance with California Code of Regulations, title 14, sections 15061, subdivision (b)(3), 15306, 15307, 15308, and 15321. This Order generally requires the Dischargers to submit plans for approval prior to implementation of cleanup and restoration activities at the Site. Mere submittal of plans is exempt from CEQA as submittal will not cause a direct or indirect physical change in the environment and/or is an activity that cannot possibly have a significant effect on the environment. CEQA review at this time would be premature and speculative, as there is simply not enough information concerning the Dischargers' proposed remedial activities and possible associated environmental impacts. To the extent that the Order requires earth disturbing and revegetation activities not to exceed five acres in size and to assure restoration of stream habitat and prevent erosion, this Order is exempt from provisions of CEQA pursuant to California Code of Regulations, title 14, section 15333. If the Regional Board determines that implementation of any plan required by this Order will have a significant effect on the environment that is not otherwise exempt from CEQA, the Regional Board will conduct the necessary and appropriate environmental review prior to approval of the applicable plan. The Dischargers will bear the costs, including the Regional Board's costs, of determining whether implementation of any plan required by this Order will have a significant effect on the environment and, if so, in preparing and handing any documents necessary for environmental review. If necessary, the Dischargers and a consultant acceptable to the Regional Water Board shall enter into a memorandum of understanding

with the Regional Water Board regarding such costs prior to undertaking any environmental review.

REQUIRED ACTIONS

IT IS HEREBY ORDERED that, pursuant to Water Code sections 13267 and 13304, that Ms. Cindy Strieff, Mr. Randy Strieff Jr., Ms. Rachel Ruhe, and the Trustee of Robert & Prudence Lammers Revocable Trust (Dischargers) shall cleanup and abate the impacts to water quality associated with the discharge and threatened discharge of earthen materials, rock, asphalt, and cement to waters of the United States as follows:

1. **By 1 August 2016**, the Dischargers shall submit a **Restoration Monitoring and Mitigation Plan** (hereafter "RMMP") prepared by an appropriately licensed professional for the removal of the remaining dam structure and completion of mitigation efforts necessary to restore East Fork Stillwater Creek to pre-dam conditions. The RMMP shall be inclusive of, but not limited to, the following:
 - a. A detailed area map accurately depicting existing topography, stream gradients, and conditions of the dam and reservoir,
 - b. An assessment of the impacts to East Fork Stillwater Creek and identification of the extent of deposition of rock and other fill materials related to the dam's failures to be addressed by cleanup,
 - c. Engineered plans for dam removal and stream restoration including:
 - i. Dewatering plans for the reservoir including measures to prevent downstream turbidity increases within East Fork Stillwater Creek.
 - ii. Plans for removal and disposal of sediment within the reservoir as well as fill materials used to construct the dam.
 - iii. Contour diagrams of existing channel conditions and proposed re-contouring for stream restoration—including at least three detailed cross sections, proposed materials, as well as short and long term bank stabilization measures.
 - d. The RMMP shall contain, at a minimum, design specifications and drawings, an implementation schedule, and a monitoring plan. The RMMP shall incorporate use of appropriate native or endemic species in any re-vegetation efforts.
 - e. The implementation schedule in the RMMP shall include detailed project milestones that take into account the time anticipated to obtain all applicable local, state, and federal permits necessary to fulfill the requirements of this Order. The time for providing that notice and obtaining that agreement should be considered and accounted for when developing a RMMP that complies with the deadlines provided in this Order.

Central Valley Water Board staffs will review the RMMP in consultation with the Dischargers or their authorized agent(s) and other responsible agencies immediately upon receipt. Once approved, work may begin immediately, but no later than the deadlines as outlined by this order.

2. **By 1 September 2016**, begin implementation of the RMMP.
3. **By 15 October 2016**, complete all approved restoration and mitigation measures described in the proposed RMMP.
4. **By 1 December 2016**, submit a **Completion Report** for the RMMP. The Completion Report shall accurately depict all construction and/or mitigation measures and document that the above plan to restore, compensate for, and minimize any further impacts to East Fork Stillwater Creek has been fully implemented.
5. **By October 1 of each year** (starting 1 October 2017) submit an annual monitoring report. The Annual Monitoring Report shall summarize monitoring results of RMMP and shall continue until at least three years after successful completion of the RMMP, or until a report, acceptable to the Assistant Executive Officer, is submitted showing the dischargers have met the requirements of the RMMP.

GENERAL REQUIREMENTS AND NOTICES

6. **Duty to Use Qualified Professionals:** The Dischargers shall provide documentation that plans, and reports required under this Order are prepared under the direction of appropriately qualified professionals. As required by the California Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. The Dischargers shall include a statement of qualification and registration numbers, if applicable, of the responsible lead professionals in all plans and reports required under this Order. The lead professional shall sign and affix their registration stamp, as applicable, to the report, plan, or document. The required activities must be implemented by the appropriately qualified/licensed professionals as otherwise required by law.
7. **Signatory Requirements:** All technical reports submitted by the Dischargers shall include a cover letter signed by the Dischargers, or a duly authorized representative, certifying under penalty of law that the signer has examined and is familiar with the report and that to their knowledge, the report is true, complete, and accurate. The Dischargers shall also state if it agrees with any recommendations/proposals and whether it approves implementation of said proposals. Any person signing a document submitted under this Order shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."
8. **Notice of Onsite Work:** The Dischargers or their authorized agent(s) shall notify Board staff at least 48 hours prior to any onsite work, testing, or sampling that pertains to environmental remediation and investigation and is not routine monitoring, maintenance, or inspection.

9. **Notice of Change in Ownership or Occupancy:** Report Any Changes in Ownership or Occupancy: The Dischargers shall file a written report on any changes in the Site's ownership or occupancy. This report shall be filed with the Central Valley Water Board no later than 30 days prior to a planned change and shall reference the number of this Order.

10. **Submissions:** All monitoring reports, technical reports or notices required under this Order shall be submitted to:

Ashley Hampton
364 Knollcrest Dr., Ste. 205
Redding, CA 96002
(530) 224-6130

11. **Other Regulatory Requirements:** The Dischargers shall obtain all applicable local, state, and federal permits necessary to fulfill the requirements of this Order prior to beginning the work. For example, FGC section 1602 requires a person or entity to notify Fish & Wildlife before: 1) substantially diverting or obstructing the natural flow of a river, stream, or lake; 2) substantially changing the bed, channel, or bank of a river, stream, or lake; 3) using any material from the bed, channel, or bank of a river, stream, or lake; and/or 4) depositing or disposing of debris, waste, material containing crumbled, flaked, or ground pavement where it may pass into a river, stream, or lake. The failure to notify Fish & Wildlife constitutes a violation of FGC section 1602.

12. **Cost Recovery:** Pursuant to Water code section 13304, the Regional Water Board is entitled to, and may seek reimbursement for, all reasonable costs it actually incurs investigating and abating the effects of the unauthorized discharges of waste and to oversee/supervise the cleanup of such waste, or other remedial action, required by this Order. The Dischargers shall enroll in the State Water Board's Cost Recovery Program and shall reimburse the State of California for all reasonable costs actually incurred by the Regional Board.

13. **Delayed Compliance:** If for any reason, the Dischargers are unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Assistant Executive Officer, the Dischargers may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as a delay is recognized and prior to the compliance date. An extension may be granted by revision of this Order or by a letter from the Assistant Executive Officer. The Regional Water Board acknowledges that local, state, and federal permits may cause a delay beyond the control of the Dischargers and will take all the available relevant facts into consideration when considering whether or not to grant an extension request.

14. **Potential Liability:** If the Dischargers fail to comply with the requirements of this Order, this matter may be referred to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability. Failure to comply with this Order may result in the assessment of an administrative civil liability up to \$10,000 per violation per day, pursuant to California Water Code sections 13268, 13350, and/or 13385. The Regional Water Board reserves its right to take any enforcement actions authorized by law, including but not limited to, violation of the terms and condition of this Order.

15. **No Limitation of Water Board Authority.** This Order in no way limits the authority of the Regional Water Board to institute additional enforcement actions or to require additional investigation and cleanup of the Site consistent with the Water Code. This Order may be revised as additional information becomes available.
16. **Modifications.** Any modification to this Order shall be in writing and approved by the Regional Water Board, including any potential extension requests.
17. **Requesting Review by the State Water Board:** Any person aggrieved by this or any final action of the Regional Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and Title 23, California Code of Regulations, section 2050 et al. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

or will be provided upon request.

This Order is effective upon the date of signature.

Pamela Creedon, Executive Officer

(Date)

Attachment 1 – 15 June 2015 Notice of Violation [unclaimed]

